

Homeowner Security Task Force Meeting
BECU, 12770 Gateway Dr., Tukwila
November 30, 2007, 10:00 a.m.–2:00 p.m.
Meeting Notes

Members of the task force present:

- Carol Nelson, Chair
- Arturo Gonzalez
- Fred Corbit
- Scott Jarvis
- Tricia McKay
- Karen Carlson, sub for Kim Herman
- Adam Stein
- Dwayne Aberle
- Gary Oakland
- Carolyn Adams, sub for Michaela Albon
- Aiko Schaefer
- Sharon Nelson
- Tom Echols
- Dave Main
- Don Riley
- Linda Taylor

Other staff present:

- Matt Steuerwalt, OFM Executive Policy
- Deb Bortner, Susan Putzier and Cindy Fazio, DFI

Welcome and Review of Minutes

The minutes of the November 16, 2007 meeting were approved.

Subcommittee on Financial Literacy Report

The case needs to be made to the Governor's office and legislature to support financial literacy and incorporate it into WASL. The draft policy statement focuses on the financial literacy and ties to education. This is for going forward; it does not address a specific crisis. Financial literacy and education are an important element of the whole challenge. The Chair proposed that the Task Force adopt the policy statement and include it in the recommendations.

The policy statement should state that this is a teachable moment right now; part of the current problem is people don't have financial education. The group supports the recommendation for increased funding, but where is the money coming from? It needs to come from both the private and public sector. Include a draft bill for funding.

It was decided to add something to the report about DFI working through CSBS to advocate to the federal regulators to agree that money for financial literacy, education and counseling is “innovative” and classify it as such on CRA audits.

There was a discussion about education in K-12 versus college or community colleges. Add references to community colleges and colleges under the first recommendation. It is important for students to learn about finances in K-12, especially high school, so everyone learns about it, because not everyone goes to college. Schools need to incorporate this in their curriculum.

There are a lot of choices for curriculum. How do you know which ones are high quality? There needs to be uniform standards for curriculum. Standards had to be set for IDAs (individual development accounts); the United Way is the keeper of those standards. Identify organizations already doing it and make them the standard keeper. DFI will work with Linda Taylor and Arturo Gonzalez to identify organizations already doing this. Scott Jarvis will also talk to his staff about who could be used.

Regulatory “Guidance”

Washington has no authority to enforce the state level guidance. The state of California passed legislation instructing their DFI to adopt it as rule; this would be a good idea for Washington. The Statement on Subprime Mortgage Lending and the Guidance on Nontraditional Mortgage Product Risks were adopted by the federal banking agencies, including NCUA, but they only apply to banks and credit unions. The Feds can set guidance for their regulated industries.

Deb Bortner provided summaries of the federal guidance on subprime lending and nontraditional products and explained what they are and what each guidance covers. They mainly focus on looking at debt to income ratio and evaluating the ability of the borrower to repay at the fully indexed rate, not the teaser rate. The guidance basically includes all the things the Task Force talked about including in the one page disclosure.

The guidance applies to everyone – mortgage brokers, non-depository lenders, banks, credit unions. The only entities that aren’t covered are non-depository lenders that are not licensed by DFI and are exempt from rules. The federal guidance covers banks and credit unions. The CSBS guidance is for states to cover other loan originators. The guidance would cover all licensees of DFI, but statutory authority is needed to adopt the guidance by rule.

DFI adopted this guidance as policy, but it doesn’t have the force of law. After discussion, it was agreed that the Task Force will recommend that the legislature direct DFI to adopt it as rule. It would then have the force of law.

Foreclosure Notice Proposal

The “Notice of Default” contains what is required by law under the foreclosure statute to be sent to property owners. People should be directed to where they can get help (an 800 number; would need funding for it). It should also include a prominent statement like “Failure to address could cause you to lose your property/house,” and a section about “Know your options.”

Fred Corbit will draft a one paragraph recommendation about modifying the statute and adding a sentence to the notice of default. It was suggested that the information be included in a cover letter,

not in the notice. Make a recommendation that interested parties work together to draft a cover letter and amendment to the statute. It's important that people know where to go to get help.

It was also suggested that who the loan is backed by (the investor—HUD, Fannie Mae, bank, etc.) be added. That is important to know for agencies assisting distressed homeowners.

Presentation by the Office of the Attorney General

Dave Huey and Jim Sugarman from the Consumer Protection Division of the Attorney General's Office gave a presentation on mortgage foreclosure rescue scams. The AG's office is responsible for enforcement actions, not regulation. With mortgage foreclosure rescue scams, the scammer gets title to the homeowner's property and the options to buy back are unenforceable. The scammer usually sells the title to a third party, refinances the loan and takes the equity, or gets a bigger loan. They forge documents or get the homeowner to sign a document unknowingly transferring title to their property. Red flags for scams are: a quit claim deed or transferring the deed with the homeowner still living in the home; strange fees on a HUD 1 form; or a cash out or a large payment to a strange entity. Predatory lending is misplaced trust, which also applies to foreclosure rescue scams.

The Attorney General's office is proposing legislation to add a new chapter to Title 64 RCW relating to distressed property conveyances. This legislation is targeted to a particular scam that includes an option to buy or lease back the property of people at risk of losing their home. The proposed legislation offers civil remedies and protections. The criminal approach is contained in the equity skimming statute. The legislation does not apply to legitimate options for the borrower to resolve the problem.

The report should state that there are attempted solutions via legislation to address this issue.

Task Force Report Discussion

The report will include:

- Introduction letter.
- Recommendations – various categories.
- Mortgage fraud and foreclosure issue.
- Other issues that require further study.
- Minority reports.

The recommendations should be broad in scope and not endorse any particular bill. Any draft legislation, including the WSHFC homeowner counseling bill, can be attached to the report as addendums. The WSHFC should get the most recent version of their bill to DFI to include in the draft report.

Addendums:

- Give the reader guidance on what immediate remedies/options/resources are available (for the consumer).
- Potential sanctions/enforcement.
- Tips from the DFI website on foreclosures.
- Can include stories from real victims or counselors.
- General information for consumers – finance options, scams, etc.

DFI will draft the report for the Task Force; members can include their comments. DFI will draft recommended legislation and give it to the Governor to introduce in the legislature.

The draft report should be done by December 7; DFI will send it to the Chair for review. It will then be FedEx'd and emailed to the Task Force early the following week for review and to sign at the meeting on December 14. Members should address any dissents and sidebars and write their minority reports if needed.

A decision needs to be made regarding fiduciary duty, whether there is agreement or not. Members should come prepared for discussion at the next meeting. If agreement can't be reached, a recommendation can be made that it needs to be examined.

It should also be included in the report that the agency relationship between the broker or loan officer and the consumer needs to be addressed and defined—who does the broker represent? Brokers should have duty of good faith.

This issue is indicative of things happening in the state dealing with financial services, especially for people of color and low income people (payday loans, refund anticipation loans, predatory practices, etc.)—lending products in general that are problematic. There are other areas the Governor should look at. The scope of issues around financial services is broader, especially concerning the unbanked and underbanked.

For education purposes, the message needs to be clear that we're not just talking about people with poor credit. There is the steering problem etc. where people with good credit get put in bad products.

When a consumer is looking for a loan, the three best options should be presented. The consumer can then make a decision based on what's best for them. The disclosure should be in layman's terms as much as possible.

Some states have limited or banned certain loan products. Some Task Force members do not want to limit products. Whether a product is good or bad depends on how it is used.

Public Comment

None.

Next Meeting

The next meeting is on December 14. BECU will confirm whether their conference room is available for the meeting. DFI will advise everyone of the location.

Meeting adjourned at 1:50 p.m.